

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

UNITED STATES OF AMERICA,                          )  
    )  
    )  
**Plaintiff,**                                        )  
    )  
vs.    )   **Case No. 98-0311-01-CR-W-GAF**  
    )  
    )  
**EDWIN R. HINESTROZA,**                            )  
    )  
    )  
**Defendant.**                                        )

**ORDER**

Now pending before the Court is Defendant Hinestroza's Motion to Dismiss Count One of the Indictment for Failure to Properly State an Offense.

On September 22, 2005, United States Magistrate Judge Sarah W. Hays issued her Report and Recommendation. On October 6, 2005, defendant filed his objections.

Upon careful and independent review of the pending motion, defendant's objections to the Magistrate's Report and Recommendation, as well as the applicable law, this Court hereby adopts and incorporates as its own Opinion and Order the Report and Recommendation of United States Magistrate Judge Sarah W. Hays.

Accordingly, it is hereby ORDERED that Defendant's Motion to Dismiss Count One of the Indictment for Failure to Properly State an Offense is OVERRULED and DENIED.

SO ORDERED.

/s/ Gary A. Fenner  
GARY A. FENNER, JUDGE  
United States District Court

DATED: October 11, 2005